IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 426 of 2002

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/10/2001 in WP NO : 20168 OF 2001 on the file of the High Court.)

Between:

Dr.S.Bojjamma W/o.Radha Krishna
C/o.Greeshma Nursing Home Chennuru Road,Beside Mukharam, Plaza
Manoherlal 1-504 208 Adilabad Dist

.....
APPELLANT

AND

1 Dealer Selection Board,Hyderabad
C/o.Hindustan Petroleum Corporation Ltd., 4 th Floor, 130/1
Substation Road, Sarojioni Devi Road,Secunderabad rep.by its Chairman
2 The Chairman Dealer Selection Board,Hyderabad
C/o.Hindustan Pertoleum Corporation Ltd., 4th Floor, 130/1,Sebastian Road,Sarojini Devi Road
Secunderabad
3 Bharat Petroleum Corporation Ltd. 45-A,Sarojini Devi Road
Post No.1511,Secunderabad Rep.by its Area Marketing Manager
4 Mrs.Arpana Babu Rao Madavi W/o.Dr.K.Balu
Main Quarters,Area Hospital Manoherlal
Adilabad District
5 Government of India Mininsry of Petroleum and Natural Gas, Tel Bhavan
New Delhi, Rep.by its Secretary

.....RESPONDENTS

For the Appellant:MR.KOKA RAGHAVA RAO

For the Respondent No.: MR.A.GIRIDHAR RAO

The Court Made the Following :

THE HON'BLE SRI JUSTICE B.SUDERSHAN REDDY
AND
THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.A.NO.426 OF 2002

JUDGMENT: (Per BRSR,J)

The unsuccessful petitioner in writ petition No.20168 of 2001 is the appellant in this appeal preferred against the order dated 12.10.2001, rendered by a learned single judge of this Court dismissing the writ petition filed by her without granting any relief whatsoever.

In order to consider the question as to whether the impugned order suffers from any legal or factual infirmity requiring our interference, few relevant facts may have to be noticed.

The petitioner in response to the advertisement issued by the Bharath Petroleum Corporation Limited on 19.08.2000 for awarding of retail outlet dealership in the category of Schedule Tribe (women) submitted her application. Various other applicants have submitted their applications. The first respondent after taking the guidelines into consideration short-listed a panel of three candidates namely; (1) the

appellant herein (2) Smt. Rajitha and (3) the fourth respondent in this appeal. On further scrutiny, the name of Rajitha was also deleted on the ground that she submitted false information with regard to her date of birth. That after such deletion, the appellant and the fourth respondent alone remained in the field for consideration of their claim for selection and appointment as a dealer.

The fourth respondent herein made a complaint to the first respondent against the appellant, *inter alia* alleging that the appellant (a) was involved in a Criminal Case filed under Section 304 Part-II of IPC and a charge sheet was also taken on file in S.C.No.269 of 1997 by the learned Sessions Judge at Adilabad (b) a suit for damages was filed against the appellant herein by one Mirza Masood Baig and others (c) the appellant's annual income exceeds more than Rs.2.00 lakhs (d) her husband's income of Rs.1.3 lakhs is also taken into consideration. Basing on the said complaint, the second respondent-Chairman vide his letter dated 03.04.2001 required the appellant to submit her reply along with supporting documents by 16.04.2001. That some further allegations were made against the appellant and the appellant was accordingly put on further notice by the second respondent. It is unnecessary to notice the further details in this regard.

Suffice it to note that the appellant submitted a

detailed explanation *inter alia* denying the allegations levelled against her. Thereafter, the second respondent vide proceedings, dated 23.08.2001 informed the appellant herein duly informing that on conducting enquiry it was found that her annual income was more than Rs.2.00 lakhs. Hence, her name has been deleted from the merit panel. She was also further informed that the detailed enquiry report has been sent to the Oil Company.

The said proceedings dated 23.08.2001 issued by the second respondent-Chairman is impugned in the writ petition.

It was mainly contended that the proceedings issued by the second respondent-Chairman is laconic and unreasoned one and therefore sustainable in law. The report submitted by the second respondent is based on no evidence and no reasons are assigned in the order and communicated the same to the petitioner deleting her name from the merit panel. That the other members of the board were not consulted and therefore the procedure adopted by the second respondent herein was contrary to the Dealer Selection Board guidelines issued by the Ministry of Petroleum.

A detailed counter affidavit has been filed by the second respondent herein *inter alia* denying all the allegations and averments made in the affidavit filed in support of the writ

petition.

The learned single judge upon hearing the learned counsel and having perused the pleadings and material available on record came to the conclusion that the annual income of the appellant herein exceeds more than Rs.2.00 lakhs and therefore she was not even entitled to apply for grant of dealership and accordingly uphold the order of the second respondent herein rejecting the claim of the appellant for selection and appointment as a dealer. Hence, this appeal is preferred.

Sri Koka Raghava Rao, learned counsel for the appellant submitted that the learned judge committed an error in dismissing the writ petition. Learned counsel further contended that the impugned proceedings of the second respondent herein suffers from incurable legal infirmity being violative of the principles of natural justice inasmuch as the appellant was never put on notice after she filed an explanation to the allegations levelled against her and she was never allowed to participate in the enquiry.

The only question that arise for consideration is whether the impugned proceedings dated 23.08.2001 emanating from the second respondent suffers from any legal infirmity. The impugned proceedings read as follows:-

> "This has reference to the allegations leveled by the third short-listed candidate Mrs.AB

> Madhavi vide letter dtd.30/03/01 that your income was more than Rs.2.0 lakhs during the relevant period. We have conducted enquiry on the same and it was found that your income was more than Rs.2.0 lakhs. Hence, your name has been deleted from the MERIT PANEL. The detailed enquiry report has been sent to the concerned Oil Co. This is your information."

The guidelines issued from time to time by the Ministry of Petroleum and Natural Gas *inter alia* provides that all the complaints against selection of dealerships/distributors received by MOP&NG/Oil Company/DSB shall have to be referred to the concerned Chairman of the DSB for his direction/decision. That in the event of an enquiry to be conducted against the empanelled candidate(s), an officer not below the rank of General Manager of the concerned Oil Company will nominate two officers for enquiry who will submit their report within thirty days from the date of the constitution of such enquiry. The enquiry report shall be forwarded to the Dealers Selection Board. The Chairman in consultation with the members of DSB at any particular time, will convey his directions/orders for compliance of the Oil Company. The guidelines do not provide any detailed procedure and a right of hearing. The enquiry to be conducted into the allegations is in the nature of inquisitorial, therefore, a detailed enquiry as such is not provided for under the guidelines. However, in this case we are not required to go into the question as to whether the

principles of natural justice have no application at all, in so far as, the enquiries that are required to be made at the instance of the complaint. The facts admitted by the appellant herein are themselves sufficient to hold that the annual income of the appellant exceeds more than Rs.2.00 lakhs.

It is evident from the record that the appellant herein at the time of filing of application declared his income as Rs.1,10,000/- p.a. and in support of it she submitted a certificate issued by the Mandal Revenue Officer dated September, 2000. But she had not furnished the information relating to the income of her husband and other dependants as is required. On the date of interview i.e., on 16.02.2001 the appellant filed a declaration of income on oath, duly notarized, to show that her income was Rs.76,280/- (as against the original declaration of Rs.1,10,000/- submitted on oath in September, 2000) and her husband's income at Rs.1,21,000/-. This certificate was also supported by the certificate issued by the Mandal Revenue Officer dated February, 2001. The conduct of the appellant would suggest that she has been making efforts to concede her real annual income. There is no dispute whatsoever that the income of her husband is also required to be clubbed along with the appellant's income for the purpose of calculating the annual income of the appellant herein as per the guide lines.

The original declaration filed by the appellant herein stating that her income would be at Rs.1,10,000/- p.a. and the further declaration submitted by her stating that her husband income was at Rs.1,21,000/- p.a. and both of them should be taken into account. It certainly exceeds Rs.2,00,000/- p.a. We are not inclined to take subsequent certificates submitted by her into consideration.

Having regard to the circumstances, the learned judge came to a conclusion that the annual income of the appellant exceeds more than Rs.2,00,000/- and it would be totally unnecessary to make any fresh enquiry and that even the enquiry report and its validity need not be gone into in view of the admitted facts. The question that whether the enquiry is properly conducted or not is totally immaterial in this case. The learned judge having perused the reports found that the records produced before the second respondent clinchingly establishes that the income of the appellant was Rs.2,42,500/- for the assessment year 1999-2000. In stead of making a detailed enquiry opposing remarks against the officers concerned, the Chairman of the Dealer Selection Board could have taken these admitted facts as is evident from the particulars furnished by the appellant herself into consideration for arriving at a proper and just conclusion about the annual income of the appellant.

In view of the concurrent findings recorded by the

learned single judge, the appellant is ineligible for award of dealership and her name has rightly been deleted from the merit panel for consideration.

In view of the above findings, I see no merit in this writ appeal and the same shall accordingly stand dismissed. No order as to costs.

DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

1 Dealer Selection Board,Hyderabad
C/o.Hindustan Petroleum Corporation Ltd., 4 th Floor, 130/1
Substation Road, Sarojioni Devi Road,Secunderabad.

2 The Chairman Dealer Selection Board,Hyderabad
C/o.Hindustan Pertoleum Corporation Ltd., 4th Floor, 130/1,Sebastian Road,Sarojini Devi Road, Secunderabad

3 The Area Marketing Manager
Bharat Petroleum Corporation Ltd. 45-A,Sarojini Devi Road
Post No.1511,Secunderabad.

4 Government of India Mininsry of Petroleum and Natural Gas, Tel Bhavan
New Delhi, Rep.by its Secretary

5. 2 c.d. copies.